

Appin. No. 10/803,515

Attorney Docket No. 10541-1934

II. Remarks

Claims 1-9 and 11-37 are pending in the application. Claim 10 has been cancelled. Claims 1 and 12 have been amended. Claims 20-37 have been added.

Rejections Under 35 USC § 102

Claims 1, 5, 6, 9, 10 and 12-15 were rejected under 35 USC §102(b) as being anticipated by U.S. Patent No. 5,806,480 issued to Maeda et al. (Maeda).

Currently amended independent claims 1 and 12 have incorporated all the limitations of claim 10. Claim 1 and claim 12 now recite the compliant member being disposed on a quarter wave tuner of the air induction system. The Examiner states that the compliant member is disposed on a quarter wave tuner of the air induction system by directing the Applicant to the explanation given for the rejection of claim 5. However, in the rejection under claim 5 is unclear if a quarter wave tuner is disclosed, let alone the placement of the quarter wave tuner. The rejection based thereon should be accordingly withdrawn.

Claims 1, 2, 5, 12-14, 16 and 19 were rejected under 35 USC §102(b) as being anticipated by Japanese Patent No. 57-2412 issued to Kanashiki (Kanashiki).

As stated previously, all the limitations of claim 10 have been incorporated into the independent claims 1 and 12. Nothing in Kanashiki discloses a compliant member being disposed on a quarter wave tuner of the air induction system and, therefore, the rejection based on Kanashiki should be accordingly withdrawn.

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Rejections Under 35 USC § 103

Claims 3, 4, 6, 17 and 18 were rejected under 35 USC §103(a) as being unpatentable over Kanashiki as applied to claims 1, 2 and 16 above and further in view of U.S. Publication No. 2003/0144418 A1 issued to Donald et al. (Donald).

As stated previously, all the limitations of claim 10 have been incorporated into the independent claims 1 and 12. A careful reading of Donald will reveal that Donald also does not disclose a compliant member being disposed on a quarter wave tuner of the air induction system in that the references fail to disclose or suggest the features which was previously noted as being absent it must be concluded that the combination of the references cannot render the claims of the present application as obvious. The rejection under §103 is therefore improper and should be withdrawn.

Claim 11 was rejected under 35 USC §103(a) as being unpatentable over Kanashiki and further in view of U.S. Patent No. 5,913,285 issued to Sadr et al. (Sadr).

As stated previously, all the limitations of claim 10 have been incorporated into the independent claims 1 and 12. A careful reading of Kanashiki and Sadr will reveal nothing in Kanashiki or Sadr discloses a compliant member being disposed on a quarter wave tuner of the air induction system and in that the references fail to disclose or suggest the features which was previously noted as being absent, it must be concluded that the combination of the references cannot render the claims of the present application as obvious. The rejection under §103 is therefore improper and should be withdrawn.

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Claims 1-3, 5-8, 10, 12-17 and 19 were rejected under 35 USC: §103(a) as being unpatentable over Japanese Patent No. 6219144 issued to Fukushima et al. (Fukushima) in view of U.S. Patent No. 6,533,953 issued to Fujihara et al. (Fujihara).

As stated previously, claim 10 has been incorporated into independent claims 1 and 12. The Examiner states that claim 10 is unpatentable over Fukushima in view of Fujihara. However, a careful reading of both Fukushima and Fujihara will reveal that neither discloses the compliant member being disposed on a quarter wave tuner of the air induction system.

Claims 20-37 have been added with claims 20 and 30 as the independent claims. Claims 20 and 30 are similar to the original independent claims 1 and 12 but have the added limitation claimed in the original claim 7 which recites the compliant member having a thickness that is less than half the thickness of the duct.

In the Office Action, the Examiner states that the thickness of the compliant member is deemed a matter of engineering design depending on the material and the frequencies it is to damp and the compliant member is deemed to be at one standing wave because of its length and the broader range of frequencies it will encounter insofar as the frequencies are a function of the engine rpm.

The Applicant respectfully disagrees. Calculating the preferred thickness of the compliant member and the duct was accomplished by a significant amount of testing and calculation and was not simply a matter of engineering design. Therefore, the claims of the present application are nonobvious and the rejection under §103 is improper and should be withdrawn.

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SUMMARY

Pending Claims 1-9 and 11-37 as amended are patentable. Applicants respectfully request the Examiner grant early allowance of these claims. The Examiner is invited to contact the undersigned attorneys for the Applicants via telephone if such communication would expedite this application.

Respectfully submitted,

August 5, 2005

Date

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